

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

ROBERT L. WATSON, JR.,

Plaintiff,

v.

MICHAEL J. ASTRUE, Commissioner of the
Social Security Administration,

Defendant.

CASE NO. 10-cv-5813 BHS

REPORT AND RECOMMENDATION
ON STIPULATED MOTION TO
REMAND

This matter has been referred to Magistrate Judge J. Richard Creatura pursuant to 28 U.S.C. § 636(b)(1)(B) and Local Magistrate Judge Rule MJR 4(a)(4), and as authorized by Mathews, Secretary of H.E.W. v. Weber, 423 U.S. 261 (1976). This matter is before the Court on the parties' stipulated motion to remand the matter to the administration for further consideration. (ECF No. 26.)

After reviewing the parties' stipulated motion and the remaining record, the undersigned recommends that the Court grant the parties' motion, and reverse and remand this matter to the Commissioner.

On remand, the agency should assign this matter to a different administrative law judge (ALJ) who should hold a new hearing, further develop the record and issue a new decision.

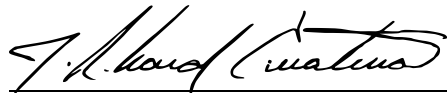
1 Specifically, the ALJ on remand should: (1) consider the lay witness statements concerning
2 plaintiff's ability to function in work settings pursuant to Social Security Ruling (SSR) 06-3p; (2)
3 in light of the expanded record, re-evaluate plaintiff's residual functional capacity pursuant to
4 SSR 96-8p; and (3) with the assistance of a vocational expert, determine whether or not there are
5 other jobs existing in significant numbers in the national economy to which plaintiff could make
6 an adjustment.

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8 Plaintiff should be allowed to present new arguments and evidence. The ALJ should
9 perform further development of the record and conduct further proceedings as necessary.

10 The parties agree that plaintiff is entitled to reasonable attorney fees and expenses
11 pursuant to the Equal Access to Justice Act, 28 U.S.C. § 2412(a), (d), following proper
12 presentation to this Court.

13 Given the facts and the parties' stipulation, the Court recommends that the District Judge
14 immediately approve this Report and Recommendation and order the case be **REVERSED** and
15 **REMANDED** pursuant to sentence four of 42 U.S.C. § 405(g). See Melkonyan v. Sullivan, 501
16 U.S. 89 (1991).

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18 DATED at this 6th day of June, 2011.

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22 J. Richard Creatura
23 United States Magistrate Judge
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